

REMARKS

Claims 1-30 and 35 are pending. Applicants appreciate the Examiner's consideration of references cited in the PTO-1449 forms received by the Office on October 6, 2003 and October 14, 2003 as evidenced by the Examiner's initials next to each reference thereon. Applicants note that the Examiner appears to have inadvertently failed to sign and date the PTO-1449 forms, however. Applicants respectfully request that the Examiner forward signed and dated PTO-1449 forms to Applicants with the next communication from the Office.

Applicants have amended claims 3, 8-10, and 25 to more particularly recite the first sealing ring, as claim 1 includes the recitation of first and second sealing rings. Applicants have canceled claims 7, 13, and 19, and have amended claim 1 to include the subject matter of these canceled claims. Applicants have amended claims 14, 20, 26, and 29 to depend from claim 1, as these claims previously depended from now canceled claims 13 and 19. Applicants have amended claim 28 to depend from claim 1 rather than from claim 27.

Applicants address the concerns of the Examiner in the order in which they appear in the Action.

I. § 103 Rejection

Claims 1-30 and 35 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,318,603 to Burt (Burt) in view of U.S. Patent No. 5,772,086 to Bryant, et al. (Bryant). At page 3, the Action states that "The motivation to combine the references of Burt and Bryant is to produce a proper seal while reducing frictional forces and comes from the specifications of Bryant not from the applicant's disclosure." Applicants respectfully traverse this rejection.

A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. M.P.E.P. § 2141.02. Applicants respectfully submit that, when considered in its entirety, Bryant does not provide the motivation to combine the teachings of Bryant and Burt to arrive at the claimed invention.

Initially, as Applicants highlighted in their previous response, many of the valves proposed by Bryant have seals, such as the seals (9 and 12) of Burt, that are positioned such that the valve stem slides through their inner sealing face. For example, see Fig. 5, seal 24; Fig. 7, seal 34; Fig. 8, seals 52, 60, and 70; Fig. 15, seal 418 and seal 408; Fig. 17, seal 616; and Fig. 25, seal 932. In each of these instances, Bryant shows a seal with a cross-section similar to the seal in Burt. Bryant does not show any seals having cross-sections such as

those described in Figs. 2a-2g positioned within a valve such that the valve stem slides through the inner sealing face of the seal. Furthermore, Bryant does not provide the motivation for one to modify the seals having cross-sections such as those described in Figs. 2a-2g so that they could be used to replace the seals (9 and 12) of Burt.

In fact, Bryant teaches away from using seals as shown in Figs. 2a-2g to replace the seals (9 and 12) of Burt. In the Background section (column 1, lines 27-46), Bryant describes a metered dose valve similar to the one described in Burt, comprising a fixed metering chamber having a movable valve stem extending therethrough. Bryant then describes various problems associated with such a configuration (col. 1, line 47-col. 2, line 8 and col. 3, lines 5-34). For example, Bryant notes that potential problems with such valves include a loss of prime, inaccurate dosing due to non-homogenous formulation in the metering tank, tortuous flow paths that could provide sites for drug deposition and/or regions where gas bubbles could be trapped, and the possibility that the dispensed dose size is dependent upon the speed of actuation. Bryant then proposes valves that are asserted to provide "a significant advancement" over these prior art valves. Applicants respectfully submit that in view of Bryant's teachings regarding the limitations of metering valves such as those taught in Burt, one of skill in the art would not be motivated to modify the valves of Burt in view of Bryant, but would instead be motivated, if at all, to improve upon the valves taught in Bryant itself.

For at least the foregoing reasons, Applicants respectfully submit that, reading Bryant in its entirety, one skilled in the art would not be motivated to modify the teachings of Burt to incorporate the teachings of Bryant to arrive at the claimed invention. Accordingly, Applicants respectfully submit that claims 1-30 and 35 are patentable over Burt in view of Bryant and request that these rejections be withdrawn.

II. Conclusion

The concerns of the Examiner addressed in full, Applicant respectfully requests the withdrawal of all outstanding objections and rejections, and the issuance of a Notice of Allowance forthwith. Applicant encourages the Examiner to direct any questions to the undersigned, who may be contacted at (919) 483-9024.

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GlaxoSmithKline Inc.
Corporate Intellectual Property
Five Moore Drive, P.O. Box 13398
Research Triangle Park, NC 27709
Tel. (919) 483-9024
Fax: (919) 483-7988

Respectfully submitted:

// J. MICHAEL STRICKLAND //
J. Michael Strickland
Attorney for Applicant
Reg. No. 47,115